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REMARKS

Applicants appreciate the Examiner's thorough consideration provided in the present application. In addition, Applicants appreciate the courtesies extended during the personal interview conducted on April 16, 2003 with the Examiner and the Examiner's supervisor. A detailed record of the interview has been provided in the Interview Summary issued by the Examiner on April 16, 2003. The issues and arguments discussed with the Examiner during the interview are presented in greater detail hereinafter under the appropriate headings.

Claims 1-10, 17-21 and 23-27 are currently pending in the instant application. Claims 1, 2, 5, 8, 10, 17 and 18 have been amended. Claims 1, 8, 17 and 25 are independent. Claims 11-16 and 22 have been cancelled. Claims 23-27 have been added for the Examiner's consideration. The subject matter of claims 23-27 is fully supported by the original written description, including but not limited to pages 8, paragraph 0035 of the specification; pages 10-11, paragraphs 0042-0048 of the specification; and FIGs. 1-5 and 7-8. Reconsideration of the present application is earnestly solicited.

Election/Restriction

Claims 11-16 have been withdrawn by the Examiner as being directed toward non-elected subject matter. Specifically, Applicants have elected claims 1-10 and 17-22 that have been described by the Examiner as Group I and

classified in class 428, subclass 36.5. In order to expedite the prosecution of the present application, Applicants have cancelled claims 11-16. However, Applicants reserve the right to pursue the subject matter of claims 11-16 in a timely filed divisional application.

Specification

The Examiner has identified potential informalities with the specification. In light of the foregoing amendment to the specification, this objection has been obviated and/or rendered moot.

Claim Rejections Under 35 U.S.C. § 112

Claims 2, 7-10 and 22 stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. This rejection is traversed.

In light of the foregoing amendments to the claims, Applicants respectfully submit that these rejections have been obviated and/or rendered moot. However, Applicants respectfully submit that the foregoing amendments have been made to merely clarify the claimed invention for the benefit of the Examiner.

Without conceding the propriety of the Examiner's rejection, but merely to timely advance the prosecution of the application, Applicants have incorporated the changes recommended by the Examiner. However, Applicants submit that the requested changes do not appear to either raise a substantial

question of the patentability of the claimed invention nor do they narrow the scope of the claimed invention.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-10 and 17-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sadlier (U.S. Patent No. 6,085,970). This rejection is respectfully traversed.

Applicants respectfully submit that the prior art of record fails to teach or suggest each and every element of the unique combination of elements of the claimed invention. Accordingly, this rejection should be withdrawn.

Specifically, with respect to claim 1, the prior art of record fails to teach or suggest the combination of elements of the claimed invention, including the limitation(s) of “a paper stock layer having an interior surface and an exterior surface, *said exterior surface of said paper stock layer forming the outermost surface of the said stock material*; a foam layer being disposed along the interior surface of the paper stock layer; and *a polyethylene film layer being disposed along the interior surface of the paper stock layer and in continuous and direct contact with said foam layer, wherein the foam layer or the polyethylene film layer forms said innermost surface of said stock material.*” (emphasis added) Accordingly, this rejection should be withdrawn.

With respect to claim 8, the prior art of record fails to teach or suggest the combination of elements of the claimed invention, including the

limitation(s) of “wherein said container wall further includes *a paper stock layer forming the outermost surface of said container wall; a thin polyethylene film layer being arranged between said paper stock layer and said beverage containing space and forming said innermost surface of said container wall; and a foam layer arranged along an interior surface of the paper stock layer and in continuous and direct contact with said polyethylene film layer*, said foam layer being sandwiched between said polyethylene film layer and said paper stock layer.” (emphasis added) Accordingly, this rejection should be withdrawn.

With respect to claim 17, the prior art of record fails to teach or suggest the combination of elements of the claimed invention, including the limitation(s) of “*an insulated beverage container sleeve comprising a bottomless container wall having a sidewall enclosing a beverage container space, said sidewall including an innermost surface and an outermost surface; a paper stock layer forming the outermost surface of said sidewall; a polyethylene film layer being disposed along the interior surface of said paper stock layer in continuous and direct contact with said foam layer, wherein said foam layer or said polyethylene film layer forms said innermost surface of said sleeve.*” (emphasis added) Accordingly, this rejection should be withdrawn.

With respect to claim 25, the prior art of record fails to teach or suggest the combination of elements of the claimed invention, including the limitation(s) of “*a paper stock layer forming the outermost surface of said container wall; a thin polyethylene film layer being arranged between said*

paper stock layer and said beverage containing space; and *a foam layer arranged along an interior surface of the container wall and forming an innermost surface of said container wall, said polyethylene film layer being in continuous and direct contact with said foam layer* and being sandwiched between said foam layer and said paper stock layer.” (emphasis added)

Accordingly, this rejection should be withdrawn.

Applicants respectfully submit that Sadlier does not teach or suggest the use of a foamed layer along the innermost surface of a beverage container, sleeve or paper stock. The Examiner has indicated that col. 10, lines 25-33 teaches this feature. However, the Examiner will note that this “[u]pon folding and wrapping, the foam layer becomes insulating layer 25, thereby replacing the need for insulating sheet 18.” The foam layer is a middle layer of the three layer system of the Sadlier cup.

In Sadlier, the cup 50 is provided with paperboard innermost and outermost surfaces. As discussed at col. 9, lines 30-56 of Sadlier, even if a paperboard used for the interior surface is coated with a foaming agent, the resulting structure still provides a foam layer between the paperboard (element 35P) and the outermost surface of the cup (element 28). In the claimed invention, a foamed layer is provided along the innermost surface of the beverage container. However, the application of foam in Sadlier is restricted to embodiments where the foam serves as an intermediate insulating layer.

In the claimed invention, a foamed layer is formed along the beverage container space, and may include a thin polyethylene film to serve as waterproofing of the interior foam layer. The advantageous and unique structure of the claimed invention of claims 1, 8, 17 and 25 is neither taught nor suggested by the prior art of record. In the claimed invention, improved hold times and a smooth interior surface are possible (e.g., the seam of the paperboard layer may be covered by the foam and/or PE film layer to provide waterproofing and seam covering). Further, the insulating sheet (element 18) of Sadlier is eliminated and/or unnecessary in the advantageous embodiments of the claimed invention since either a foam layer or a foam layer with a thin polyethylene film layer forms the innermost layer of the cup, sleeve or stock material.

Further, the Examiner has relied upon col. 7, lines 11.15-45 to teach or suggest a beverage container “sleeve.” However, Applicants respectfully traverse this interpretation of the unfinished cup of Sadlier. Specifically, the alleged sleeve of Sadlier is merely a cup that has been formed without a bottom portion yet attached. However, there is no teaching or suggestion that this blank is finished into “a sleeve” that is fitted over an existing cup. Specifically, col. 7, lines 39-45 indicate that the blank is just an unfinished cup 50.

Applicants respectfully submit that one or ordinary skill in the art will readily appreciate that a beverage container sleeve is not an unfinished cup 50, e.g., without the bottom portion attached, but rather a member that can slide

over an existing beverage container. Claim should also be allowed for the additional features identified and discussed with respect to claims 8 and 25 above.

In accordance with the above discussion of the patents relied upon by the Examiner, Applicants respectfully submit that these documents, either in combination together or standing alone, fail to teach or suggest the invention as is set forth by the claims of the instant application.

Accordingly, reconsideration and withdrawal of the claim rejection are respectfully requested. Moreover, Applicants respectfully submit that the instant application is in a condition for allowance.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

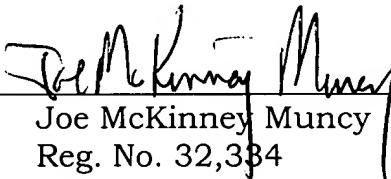
In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew T. Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By


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Attachment: Version with Markings to Show Changes Made

MARKED-UP VERSION OF AMENDMENTS

IN THE SPECIFICATION:

The paragraph [0028] has been amended as follows:

[0028] Figures 2 through Figure 5 are cross-sectional views of an insulated beverage container wall [11] 1 according to various embodiments of the present invention. One of ordinary skill in the art will appreciate that an insulated container 10 as shown in Figure 1 will readily incorporate each of the beverage container walls depicted in Figures 2 through Figure 5. While the following description is directed toward a cup, the techniques of this invention can be applied to any number of containers or surfaces, for instance a beverage container insulating beverage sleeve or stock material can be constructed from any of the embodiments shown in the accompanying drawings.

IN THE CLAIMS:

Claims 23-27 have been added.

Claims 11-16 and 22 have been cancelled.

The claims have been amended as follows:

1. (Amended) An insulated beverage container stock material comprising:

said stock material having an innermost surface and an outermost surface, said stock material including

a paper stock layer having an interior surface and an exterior surface, said exterior surface of said paper stock layer forming the outermost surface of said stock material; [and]

a foam layer being disposed along the interior surface of the paper stock layer; and

a polyethylene film layer being disposed along the interior surface of the paper stock layer and in continuous and direct contact with said foam layer, wherein the foam layer or the polyethylene film layer forms said innermost surface of said stock material.

2. (Amended) The insulated beverage container stock material according to claim 1, [further comprising a] wherein said polyethylene film layer is sandwiched between said paper stock layer and said [polyethylene] foam layer.

5. (Amended) The insulated beverage container stock material according to claim 1, [further comprising a polyethylene film layer,] wherein said polyethylene film layer [sandwiching] sandwiches said foam layer between said paper stock layer and said polyethylene film layer.

8. (Amended) An insulated beverage container comprising:
a container wall having a side portion enclosing a beverage containing space, and having an innermost surface and an outermost surface; and

a bottom portion engaging said container wall along [a lower] said side portion; wherein said container wall further includes

a paper stock layer [arranged along an] forming the outermost [exterior] surface of said container wall;

a thin polyethylene film layer being arranged between said paper stock layer and said beverage containing space and forming said innermost surface of said container wall; and

a foam layer arranged along an interior surface of the [container wall] paper stock layer and in continuous and direct contact with said polyethylene film layer, said foam layer being sandwiched between said polyethylene film layer and said paper stock layer.

10. (Amended) The insulated beverage container [stock] according to claim 8, further comprising an insulating coating sandwiched between said foam layer and said paper stock layer.

17. (Amended) An insulated beverage container sleeve comprising:

a bottomless container wall having a sidewall enclosing a beverage container space, said sidewall including an innermost surface and an outermost surface;

a paper stock layer forming the outermost surface of said sidewall;

a foam layer being disposed along an interior surface of the paper stock layer; and

a polyethylene film layer being disposed along the interior surface of said paper stock layer in continuous and direct contact with said foam layer, wherein said foam layer or said polyethylene film layer forms said innermost surface of said sleeve.

18. (Amended) The insulated beverage container sleeve according to claim 17, [further comprising a] wherein said polyethylene film layer is sandwiched between said paper stock layer and said [polyethylene] foam layer.